

COURT OF APPEAL OF STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

March 19, 2001

**D037019        In re Jackson on Habeas Corpus**

The petition is denied.

**D036024        People v. Superior Court of San Diego County/Preciado**

Accordingly, we grant the People's petition and direct that the trial court vacate its order dismissing the People's petition. CERTIFIED FOR PUBLICATION. Benke, J.; We Concur: Kremer, P.J., Nares, J.

**D037294        Goudy v. Superior Court of San Diego County/Skene**

The petition is denied.

**D034520        People v. Bailey**

Affirmed. Haller, J.; We Concur: Kremer, P.J., Huffman, J.

**D037291        In re Kevin James S., a Juvenile**

The appeal is dismissed pursuant to rule 17(a).

**D036664        In re ANGEL M. et al., Juveniles**

The judgments are affirmed. O'Rourke, J.; We Concur: Kremer, P.J., McIntyre, J.

**D037424        Fame v. Davis et al.**

Pursuant to California Rules of Court, rule 10(c), the appeal filed January 30, 2001, is dismissed for appellant's failure to timely designate the record (Cal. Rules of Court, rules 4(a) and 5(a)).

**D036450        Lifetime Memory Products, Inc. v. Century Indemnity Company et al.**

The court's order on defendants' motion for judgment notwithstanding the verdict is affirmed in part and reversed in part. The portion of the order granting judgment notwithstanding the verdict as to the punitive damages and attorney's fees is affirmed. The portion of the order denying judgment notwithstanding the verdict as to the remainder of the judgment is reversed. The judgment is vacated. The court is directed to issue a new order granting defendants' motion for judgment notwithstanding the verdict in its entirety and to enter judgment accordingly. Plaintiff to pay costs on appeal. O'Rourke, J.; We Concur: Benke, Acting P.J., Huffman, J.

**D036520        Dosanjh et al. v. Disneyland, Inc. et al.**

The judgment is affirmed. Appellant to pay costs on appeal. O'Rourke, J.; We Concur: Huffman, Acting P.J., McIntyre, J.

**D037332        In re Oscar V. et al., Juveniles**

The attorney for petitioner Leticia C. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under rule 39.1B will not be filed as there are no viable issues for writ review. The case is dismissed.

COURT OF APPEAL OF STATE OF CALIFORNIA  
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DIVISION ONE

March 19, 2001 (Continued)

**D037404        In re Tabitha L., a Juvenile**

The attorney for petitioner Punefuolemotu L. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 39.1B will not be filed as there are no viable issues for writ review. The case is dismissed.

**D035917        In re Amaya S., a Juvenile**

**D036175        In re Demetrius D. et al., Juveniles**

**D037120        In re Charles W., a Juvenile**

The pending petition for writ of habeas corpus, In re Charles W., D037120, is consolidated with the pending appeal, In re Amaya S., D035917 for disposition.

**D035917        In re Amaya S., a Juvenile**

**D036175        In re Demetrius D. et al., Juveniles**

**D037120        In re Charles W., a Juvenile**

The order denying Cassandra's section 388 petition is affirmed. The orders selecting adoption as the permanent plan for William, Charles, Ashley and Amaya and terminating parental rights as to those children are affirmed. Charles's petition for writ of habeas corpus is denied. McIntyre, J.;  
We Concur: Benke, Acting P.J., McDonald, J.

**D037280        Shanker, Inc. et al. v. Superior Court of Imperial County/Ocwen Federal Bank, FSB**

The petition is denied.

**D035857        People v. Crite**

Judgment affirmed. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.

**D035586        People v. Sandoval**

Judgment affirmed. Kremer, P.J.; We Concur: Huffman, J., O'Rourke, J.

**D037091        In re Romero on Habeas Corpus**

The petition is denied.

**D037032        In re Austin on Habeas Corpus**

The petition is denied.

**D036513        Luvonne International Marketing Corp. et al, v. LaBlonde**

The order granting LaBlonde's motion to quash service of process is reversed. Plaintiffs to recover their costs on appeal. Haller, J.; We Concur: Kremer, P.J., McDondal, J.

**D037373        Deutsch v. Superior Court of San Diego County/Moore et al.**

The petition is denied.

COURT OF APPEAL OF STATE OF CALIFORNIA  
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DIVISION ONE  
March 19, 2001 (Continued)

**D035435        Ragen v. Peterson**

Summary judgment is reversed. The protective order, dated August 23, 1999, is reversed except as to evidence pertaining solely to legal conclusions concerning the meaning of the CC & R's. Ragen to bear costs on appeal. Haller, J., Acting P.J.; I Concur: O'Rourke, J., I Dissent: Nares, J (by opinion)

**D037037        In re Espinoza on Habeas Corpus**

The petition is denied.

**D037037        Roosenberg v. Workers' Compensation Appeals Board and Tri-City Medical Center et al.**

The petition is denied as premature.

**D036635        In re P.M., a Juvenile**

The judgment is affirmed. Kremer, P.J.; We Concur: Benke, J., Nares, J.

COURT OF APPEAL OF STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

March 20, 2001

**D035501        In re Donald Leo W., III, a Juvenile**

The judgment is affirmed. Huffman, J.; We Concur: Benke, Acting P.J., McIntyre, J.

**D036212        People v. Compher**

Judgment affirmed. Nares, J.; We Concur: Kremer, P.J., McIntyre, J.

**D036250        In re Vanessa D. et al., Juveniles**

Order affirmed. Kremer, P.J.; We Concur: Benke, J., McDonald, J.

**D036854        Singh et al. v. Graham et al., Individually and as Trustee, etc.**

The judgment is reversed to the extent that it failed to order the Singhs to reconvey the R.V. park deeds of trust upon entry of judgment in Singhs' favor. The court is ordered to enter a new judgment providing for such a reconveyance. In all other respects the judgment is affirmed. Appellants to recover their costs on appeal. Nares, Acting P.J., We Concur: McDonald, J., O'Rourke, J.

**D034618        People v. Thogmartin**

The judgment is affirmed. Huffman, J.; We Concur: Kremer, P.J., O'Rourke, J.

**D034688        People v. Lopez**

The judgment is affirmed. Nares, J.; We Concur: Kremer, P.J., O'Rourke, J.

**D035558        Achoy v. Hung**

The judgment is affirmed. Huffman, J.; We Concur: Kremer, J., Nares, J.

**D035578        In re Leslie O., a Juvenile**

The juvenile court's order suspending Leslie's privilege to drive for a year is affirmed. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.

**D034522        Smith v. Key et al.**

The judgment is reversed and the matter is remanded to the superior court, which is directed to dismiss the action with prejudice. The remittitur shall issue immediately. Each party shall bear its own costs on appeal. Haller, J.; We Concur: Kremer, P.J., Nares, J.

**D037018        Margala v. Murdock et al.**

The notices of appeals, filed November 30, 2000 and December 19, 2000, are dismissed.

COURT OF APPEAL OF STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

March 21, 2001

**D037405        In re Gabriela M., a Juvenile**

The attorney for petitioner Walter M. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 39.1B will not be filed as there are no viable issues for writ review. The case is dismissed.

**D036886        In re the Marriage of Arya**

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 17(a). The appeal is dismissed.

**D037165        Holiday v. Superior Court of San Diego County/The People**

The petition is denied.

**D037502        Floyd et al. v. Superior Court of Imperial County/Valley Independent Bank et al.**

The petition is denied.

**D035367        People v. Knight**

The judgment is affirmed. Huffman, J.; We Concur: Benke, Acting P.J., Nares, J.

**D035200        People v. Jackson**

The judgment is affirmed. Huffman, J.; We Concur: McDonald, J., O'Rourke, J.

**D037584        City of San Diego v. Superior Court of the County of San Diego/Border Business Park Inc.**

Real party in interest is to file an informal response to the petition within ten days of the date of this order. The response should address, but is not limited to, the following questions.

1. Did Judge DiFiglia's response to the City of San Diego's statement of disqualification result in his disqualification under Code of Civil Procedure section 170.3(c)(4) or another statute?
2. Assuming the trial court judge was disqualified on his recusal or by not consenting or answering the statement of disqualification within 10 days, what is the legal effect of the judge's disqualification on the rulings and orders made before the filing of the statement of disqualification? Counsel's attention is directed to Code of Civil Procedures section 170.3(b)(4) and 170.4(c)(1).
3. Is the effect of disqualification of the trial judge on prior orders or rulings more appropriately considered in procedures, including a motion for new trial, other than the procedures contained in Code of Civil Procedure section 170.1 et seq.?

Petitioner may file a reply to the informal response within ten days after real party in interest's filing with this court.

COURT OF APPEAL OF STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

March 22, 2001

**D034746        People v. Ford**

We direct the superior court to amend the abstract of judgment to show that two prison priors under section 667.5, subdivision (b), have been stricken and to forward an amended abstract of judgment to the Department of Corrections. In all other respects, the judgment is affirmed. O'Rourke, J.; We Concur: Nares, Acting P.J., McDonald, J.

**D037099        Opus One et al. v. Superior Court of San Diego County/Gildred & Associates, Inc.**  
The petition is denied.

**D035761        People v. Vaques**  
The petition for rehearing is denied.

**D037384        Pateman v. Superior Court of San Diego/People**  
The petition is denied.

**D037206        In re Brim on Habeas Corpus**  
The petition is denied without prejudice to refile after consideration by the superior court.

**D037500        Baumer v. Superior Court of San Diego County/People**  
The petition is denied.

**D034653        Gonzales v. Gerwend Enterprises et al.**  
The judgment is affirmed as to Gonzales's causes of action for breach of implied-in-fact contract, intentional and negligent infliction of emotional distress, employment discrimination and specific performance and as to his claims against Aban and Pizzaro individually. As to Gonzales's causes of action for breach of contract, breach of the covenant of good faith and fair dealing and fraud, the judgment is reversed. Gonzales shall recover his costs on appeal. O'Rourke, J.; We Concur: Nares, Acting P.J., McIntyre, J.

**D037446        In re the Marriage of Strickland**  
Pursuant to California Rules of Court, rule 10c, the appeal filed November 27, 2000, is dismissed for appellant's failure to timely designate the record (Cal. Rules of Court, rules 4(a) and 5(a)).

**D037497        Rancho Cielo Development etc. v. Superior Court of San Diego County/Lindsey et al.**  
The petition is denied.

**D035723        In re Mateo S., a Juvenile**  
The judgment is affirmed. Huffman, J.; We Concur: Benke, Acting P.J., McDonald, J.

**D036508        Randall v. Scovis et al.**  
The petition for rehearing is denied.

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March 22, 2001 (continued)

**D036303        In re Michael, R., a Juvenile**

Judgment affirmed. Haller, J.; We Concur: Nares, Acting P.J., McDonald, J.

**D035217        Surf & Sand Motel, LP et al. v. Aries Capital, Inc.**

The judgment is affirmed. Appellant to pay costs on appeal. O'Rourke, J.;

We Concur: Huffman, Acting P.J., Nares, J.

**D036507        People v. Wilkens**

We reverse the true findings of the three serious and violent felonies committed when Wilkens was a juvenile. We affirm the judgment in all other respects. O'Rourke, J.; We Concur: Huffman, Acting P.J., Nares, J.

**D035647        AFJR Partnership et al. v. City of San Diego et al.**

The appeal is dismissed.

**D037640        Jones v. Superior Court of San Diego County/Carr**

The petition is denied.

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March 23, 2001

**D037104        In re Foster on Habeas Corpus**

The petition is denied.

**D036453        In re Breonna T., a Juvenile**

The request for publication of the opinion is denied.

**D036164        San Diego County Health and Human Services Agency v. Kelly F.**

The opinion filed on February 28, 2001, is modified as follows:

On page 2, line 16, the quotation marks are deleted so the line reads:

are not analogous to criminal proceedings. (Conservatorship of Susan T. (1994) 8 Cal.4th 1005, 1015.)

There is no change in judgment.

The petition for rehearing is denied.

**D037095        In re Masters on Habeas Corpus**

The petition is denied.

**D037215        In re Consiglio on Habeas Corpus**

The petition is denied.

**D037212        In re De Ocampo on Habeas Corpus**

The petition is denied.

**D037589        G&B Emporia Inc. et al. v. Superior Court of San Diego County/Mercury Books, Inc.**

The petition is denied.

**D036034        Valentino et al. v. Franchise Tax Board**

The judgment is affirmed. CERTIFIED FOR PUBLICATION. Work, Acting P.J.;

We Concur: Huffman, J., Haller, J.

**D035138        Martin v. Joyner, as Trustee, etc.**

The order is affirmed. Work, Acting P.J.; We Concur: Huffman, J., Haller, J.

**D036638        In re Kristen F., a Juvenile**

The judgment is affirmed. McIntyre, J.; We Concur: Nares, Acting P.J., Haller, J.

**D036871        In re Shanae W., a Juvenile**

The judgment is affirmed. O'Rourke, J.; We Concur: Benke, Acting P.J., Nares, J.

**D034948        People v. Weise et al.**

The superior court's refusal to grant the People's motion under section 871.5 was erroneous. The superior court's order is reversed and it is directed to return the case to the magistrate with orders to resume the proceedings within 10 days pursuant to section 871.5, subdivision (e). CERTIFIED FOR PUBLICATION. Benke, Acting P.J.; We Concur: McIntyre, J, O'Rourke, J.



COURT OF APPEAL OF STATE OF CALIFORNIA  
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DIVISION ONE

March 23, 2001 (Continued)

**D037615      Laguardia v. Tamura**

The petition is denied.

**D035119      Triprism, Inc. v. Dellastatious et al.**

The petition for rehearing is denied.

**D036829      Elisalda v. Univision Network Limited Partnership**

The judgment is affirmed. Univision is awarded costs on appeal. Nares, Acting P.J.;

We Concur: McDonald, J., O'Rourke, J.

**D034959      Braunstein v. Apple Computer, Inc.**

The December 1999 order is affirmed. The March 2000 order is affirmed in part and reversed in part, consistent with this opinion. Apple's request for an award of reasonable attorney fees on appeal is remanded to the trial court for a determination of both entitlement and amount. Nares, Acting P.J.;

We Concur: McDonald, J., O'Rourke, J.

**D035158      National City Police Officers' Association v. City of National City**

The opinion, filed March 2, 2001, is ordered certified for publication.

**D034848      In re Marriage of Titan and Freeman**

The judgment and orders are affirmed. Work, J.; We Concur: Kremer, P.J., Haller, J.